IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL..

Writ Petition No. 916 (M/S) of 2005

1. Smt. Yageshwari Ghildiyal, wife of Sri Shiv Prasad Ghildiyal, at present working as Assistant Teacher, (LT Grade) Arts, Government Girls Inter College, Kotdwar, Pauri Garhwal.

2. Smt. Chaya Agarwal, daughter of Sri Shayam Lal Agarwal, at present working as Assistant Teacher (LT Grade) General GGIC Kotdwar, Pauri. Garhwal.

…….Petitioners.

Versus

1. State of Uttaranchal, through its Secretary, Education Uttaranchal Shashan, Dehradun.

2. Director of Education (Madhyamik), Uttaranchal, Mayur Vihar, Dehradun.

3. Additional Director, Education (Madhyamik), Mayur Vihar, Nainital.

4. Joint Director, Education, Garhwal Mandal, Pauri.

5. District Education Officer, Pauri Garhwal.

6. Principal, Government Girls Inter College, Kotdwar, District – Pauri Garhwal.

…….Respondents

Hon'ble P.C. Verma, J

Heard Sri M.C. Kandpal, Sr. Advocate, assisted by assisted by Sri S. S. Chaudhary, learned counsel for the petitioners and learned standing counsel, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agreed to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner has challenged the transfer order dated 30.06.2005 passed by District Education Officer, Pauri Garhwal.

Admittedly, petitioners are government servant and fundamental rules of the State are applicable upon the petitioners. It is provided in the fundamental rules that a government servant, holding transferable post, can be transferred any where in the State. It is settled law that fundamental rules have overriding effect over the Government Order(s).

No other point has been raised by the learned counsel for the petitioners. It is not disputed that petitioners hold transferable posts and transfer is exigency in service. From the perusal of record it reveals that transfer orders are neither stigmatic nor punishment in any manner. Learned counsel for the petitioner is unable to show the malaide in the transfer orders and the same cannot be interfered by this court under Article 226 of the Constitution of India.

In view of the above facts, I do not find any force in the submission of the learned counsel for the petitioners.

Writ petition is dismissed in limine. No order as to costs.

(P.C. Verma, J)

July 18, 2005
S.K.Sharma